

REMARKS

Applicants acknowledge receipt of an Office Action dated April 18, 2003. In this response, Applicants have amended claims 1, 15, 21, 22 and 26 and have added claims 26 and 27. Support for these amendments may be found in the specification, *inter alia*, at the paragraph bridging pages 2 and 3, the last two paragraph on page 3 and the first full paragraph on page 4. Following entry of these amendments, claims 1-27 remain pending in the application.

Reconsideration of the present application is respectfully requested in view of the foregoing amendments and the remarks which follow.

Objections to the Specification

On page 2 of the Office Action, the PTO has objected to the specification, noting that incorporation of essential material in the specification by reference to a foreign application or patent is improper. The PTO has required that Applicants amend the specification to include the material incorporated by reference and that Applicants submit a declaration executed by Applicants or a practitioner representing Applicants stating that the added material consists of the same material incorporated by reference from the referenced application.

At this time, it does not appear that German Patent Application No. 199 52 898.5 contains essential material. Accordingly, Applicants submit that the incorporation by reference is proper. Of course, if it is later determined that German Patent Application No. 199 52 898.5 contains essential material, Applicants reserve the right to amend the present specification to incorporate that material at that time.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding objections to the drawings.

Rejections Under 35 U.S.C. §103

On page 2 of the Office Action, the PTO has rejected claims 1-21, 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,841,360 to Binder (hereafter

"Binder"). In addition, on page 4 of the Office Action, the PTO has rejected claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Binder in view of U.S. Patent 6,225,769 to Brenner *et al.* (hereafter "Brenner"). In this response, Applicants have amended independent claims 1, 15 and 21. In view of these amendments and the remarks set forth below, Applicants respectfully traverse these rejections.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). See MPEP §2143.03. Here, neither Binder nor Brenner, taken either individually or in combination, teach or properly suggest an electrical circuit which "**provides for both software and hardware coding of the subscriber number**" as recited in each of independent claims 1, 15 and 21. In view of this deficiency in the cited references, Applicants submit that the rejections of claims 1-25 under 35 U.S.C. §103 are improper and should be withdrawn.

With particular regard to claims 21 and 26, Applicants note that neither Binder nor Brenner, taken either individually or in combination, teach or properly suggest "a flap in a motor vehicle heating or air-conditioning system wherein the flap is operatively linked to the actuating drive and wherein the flap comprises a mixing-air flap or a defroster flap" and an electrical circuit operatively connected to the actuating drive wherein the electrical circuit provides for both software and hardware coding of the subscriber number.

With particular regard to claims 25 and 27, Applicants note that neither Binder nor Brenner, taken either individually or in combination, teach or properly suggest an apparatus for actuating a control element for a heating or air-conditioning system in a motor vehicle which comprises a first actuating drive and at least one additional actuating drive which is substantially identical to the first actuating drive and which is operably linked to a flap for a motor vehicle heating or air-conditioning system:-

Finally, in the last 5 lines on page 3 of the Office Action, the PTO has taken the position that the claimed type of memory, the number of contacts on the connector and the arrangement of the contacts on the connector would have been obvious despite the fact that

neither Binder nor Brenner, taken either individually or in combination, teach or fairly suggest these features of the presently claimed invention. In accordance with MPEP §2144.03, Applicants respectfully request that the PTO cite references to support the positions it has taken.

If an independent claim is non-obvious under §103, then any claim depending therefrom is also non-obvious. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988). See MPEP 2143.03. Thus, Applicants submit that claims 2-14, 16-20 and 22-27, which ultimately depend from one of independent claims 1, 15 and 21, are also non-obvious.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of these rejections under §103.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of

papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R.
§1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date August 18, 2003

By

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